

## NOTICE OF PUBLIC COMMENT PERIOD ON PROPOSED CHANGES TO ALASKA DEPARTMENT OF ENVIRONMENTAL CONSERVATION REGULATIONS

### BRIEF DESCRIPTION

The Alaska Department of Environmental Conservation (DEC) is proposing to change regulations on contaminated sites and underground storage tanks to broaden the number of individuals who may qualify to conduct environmental work at contaminated sites and underground storage tank sites, adopt updates to referenced documents, and to clarify, simplify and make consistent additional regulatory language.

The DEC proposes to adopt regulation changes in Title 18, Chapter 75 of the Alaska Administrative Code dealing with Oil and Other Hazardous Substances Pollution Control, and Title 18, Chapter 78 of the Alaska Administrative Code dealing with Underground Storage Tanks. The changes include the following:

- Amend 18 AAC 75.325 to clarify how existing cumulative risk thresholds are to be reported.
- Amend 18 AAC 75.355 to
  - permit a qualified sampler to conduct certain activities when a qualified environmental professional is not available;
  - clarify language to make this section consistent with language in 18 AAC 78.090(f) concerning the department's authority to waive the requirement for a "qualified impartial third party;" and
  - update the adopted-by-reference version of the Environmental Protection Agency's Standard Test Methods SW-846 and adopted-by-reference version of the Underground Storage Tanks (UST) Procedures Manual.
- Amend 18 AAC 75.365 to reflect an updated adopted-by-reference document titled, Operation Requirements for Soil Treatment Facilities.
- Repeal and readopt 18 AAC 75.370(a)(4) to provide a new table with updated standards for bottom liners.
- Amend 18 AAC 75.380 to include wording on how sampling results from contaminated soil shall be calculated and presented.
- Amend 18 AAC 75.390 to correct a typographical error.
- Amend definitions at 18 AAC 75.990 to:
  - revise "groundwater" to conform with the parallel definition in 18 AAC 70;
  - provide a new definition for "qualified environmental professional" to allow more flexibility by including alternate ways to meet the definition; and
  - provide a new definition for "qualified sampler" to allow individuals with less experience to perform certain activities.
- Make conforming changes throughout the chapter, including repealing the definition for "qualified person" and replacing it with the term, "qualified environmental professional" in the following sections: 18 AAC 75.335, 360, 365, 380, 390 and 990.
- Amend 18 AAC 78.007 to reflect an updated adopted-by-reference version of the UST Procedures Manual;
- Amend 18 AAC 78.090 to:

- add a new sub-subparagraph requiring excavated soil be field-screened and sampled for UST in-place closure assessments; and
  - update section (f) to conform to section 18 AAC 75.355(b).
- Amend 18 AAC 78.235 to:
  - add language to reference the waiver option in 18 AAC 78.090(f); and
  - repeal subsection (c) because it is redundant.
- Amend 18 AAC 78.271 to allow a qualified sampler to conduct certain activities when a qualified environmental professional is not available.
- Amend 18 AAC 78.273 to reflect an updated adopted-by-reference document titled, Operation Requirements for Soil Treatment Facilities.
- Repeal and readopt 18 AAC 78.274(a)(4) to provide a new table with updated standards for bottom liners.
- Amend 18 AAC 78.275 to remove reference to EPA’s Test Methods at SW-846 and replace it with a reference to Table 1 of the UST Procedures Manual.
- Amend 18 AAC 78.600 to:
  - clarify the method of reporting existing cumulative risk thresholds; and
  - correct the out-of-date reference to a since-updated version of the Cumulative Risk Guidance.
- Amend definitions in 18 AAC 78.995 to:
  - provide a new definition for “qualified environmental professional” to allow more flexibility by including alternate ways to meet the definition; and
  - provide a new definition for “qualified sampler” to allow individuals with less experience to perform certain activities.
- Make conforming changes throughout the chapter, including repealing the definition for “qualified person” and replacing the term, “qualified impartial third party” with the term, “qualified environmental professional” in the following sections: 18 AAC 78.090, 235, 250, 271, 273, 275, 276, 600, 930 and 995.
- Update two DEC documents that are adopted by reference:
  - Underground Storage Tank Procedures Manual; and
  - Operation Requirements for Soil Treatment Facilities (previously titled the Soil Treatment Facility Guidance).
- Housekeeping edits throughout the chapters to reflect the above changes, revise and clarify wording, correct typographical errors, clarify information in tables, and correct and update referenced regulations and updated documents.

You may comment on the proposed regulation changes, including the potential costs to private persons of complying with the proposed changes, by submitting written comments to Sally Schlichting, Alaska Department of Environmental Conservation, 410 Willoughby Ave., Suite 303, P.O. Box 111800, Juneau, AK 99811-1800, by facsimile at: (907) 465-5218, or by e-mail to [sally.schlichting@alaska.gov](mailto:sally.schlichting@alaska.gov). Alternatively, you may submit your comments through the State of Alaska’s online public notice website at: <http://aws.state.ak.us/OnlinePublicNotices/Default.aspx>. **Comments must be received by 5:00 p.m. on November 26, 2014.** Comments received after this date will not be considered in final action on these rules.

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If you are a person with a disability who needs a special accommodation in order to participate in this public process, please contact Eric Hotchkiss at (907) 465-6171 or TDD Relay Service 1-800-770-8973/TTY or dial 711 no later than November 19, 2014, to ensure that any necessary accommodations can be provided.

For a copy of the proposed regulation changes, contact:  
Susan Erben, Alaska Department of Environmental Conservation, 410 Willoughby Ave., Suite 303, P.O. Box 111800, Juneau, AK 99811-1800; by phone at (907) 465-5206; by facsimile at (907) 465-5218; by email at [susan.erben@alaska.gov](mailto:susan.erben@alaska.gov). Or visit:

The State of Alaska online public notice website at <http://aws.state.ak.us/OnlinePublicNotices/>  
The DEC website at [http://www.dec.alaska.gov/commish/public\\_notices.htm](http://www.dec.alaska.gov/commish/public_notices.htm).

For additional information on the proposed changes including updated documents adopted-by-reference and frequently asked questions, visit: [http://dec.alaska.gov/spar/csp/reg\\_rev.htm](http://dec.alaska.gov/spar/csp/reg_rev.htm).

After the public comment period ends on November 26, 2014, DEC will either adopt these or other provisions dealing with the same subject, without further notice, or decide to take no action on them. The language of the final regulations may be different from that of the proposed regulations. **You should comment during the time allowed if your interests could be affected.** Written comments received are public records and are subject to public inspection.

**Statutory Authority:** AS 46.03.010, AS 46.03.020, AS 46.03.050, AS 46.03.070, AS 46.03.710

**Statutes Being Implemented, Interpreted, or Made Specific:**

AS 44.46.020	AS 46.03.740	AS 46.04.110
AS 44.46.025	AS 46.03.745	AS 46.08.140
AS 46.03.020	AS 46.03.755	AS 46.09.010
AS 46.03.050	AS 46.03.758	AS 46.09.020
AS 46.03.070	AS 46.03.822	AS 46.09.060
AS 46.03.365	AS 46.04.020	AS 46.09.070
AS 46.03.375	AS 46.04.030	AS 46.23.020
AS 46.03.380	AS 46.04.035	AS 46.35.090
AS 46.03.405	AS 46.04.055	Sec. 7, Ch. 96, SLA 1990
AS 46.03.710	AS 46.04.070	

**Fiscal Information:** The proposed regulation changes are not expected to require an increased appropriation.



Larry Hartig, Commissioner

Dated: September 25, 2014  
Juneau, Alaska

ADDITIONAL REGULATIONS NOTICE INFORMATION  
(AS 44.62.190(d))

1. Adopting agency: Alaska Department of Environmental Conservation
2. General subject of regulation: Contaminated sites and regulated underground storage tanks
3. Citation of regulation (may be grouped): 18 AAC 75; 18 AAC 78
4. Department of Law file number: JU2011200192
5. Reason for the proposed action:
  - compliance with federal law
  - compliance with new or changed state statute
  - compliance with court order
  - development of program standards
  - other: (please list)
6. Appropriation/Allocation: Spill Prevention and Response (AR 48500)/Contaminated Sites Program (AR 48502)
7. Cost of implementation to the state agency and available funding (in thousands of dollars): No additional costs expected beyond regular program budget
8. The name of the contact person for the regulations:

Name: Sally Schlichting  
Title: Environmental Program Manager I  
Address: Alaska Department of Environmental Conservation, 410 Willoughby Ave., Suite 303, P.O. Box 111800, Juneau, AK 99811-1800  
Telephone: (907) 465-5076  
E-mail address: sally.schlichting@alaska.gov

9. The origin of the proposed action:
  - staff of state agency
  - federal government
  - general public
  - petition for regulation change
  - other (please list) \_\_\_\_\_

10. Date: September 25, 2014

Prepared by: \_\_\_\_\_  
[signature]

Sally Schlichting  
Environmental Program Manager I  
(907) 465-5076

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